

Serial No. 10/079,192  
Inventor: Gary Handwerker  
Response to OA of 15-Jun-2005  
Attorney Docket: 6081-005  
Customer No. 29,335

## **Remarks**

### *Status of Claims*

Claims 1, 4, 7, 12, 14, and 23 have been amended. No new matter has been added by way of these amendments to the claims.

### *The Rejection of Claims 7-9 Under 35 U.S.C. § 102(b) as Anticipated by Chavannes (3142599) Should be Withdrawn.*

Chavannes is cited for the proposition that Figure 10 and Col. 8, lines 40-48 teach a top and bottom layer (96, 97), a heat insulative bubble layer (95) located and sealed therebetween and heat reflective layers (98, 99) on the bottom outer layer (96) or top outer layer (97). As recited in the Manual of Patent Examining Procedure § 2131, “[a] claim is anticipated only if *each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (Quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987))(emphasis added).

Claim 7 has been amended to positively claim “a moisture impervious bottom outer layer comprising a polymer having heat reflective elements dispersed throughout said polymer ....” The bottom outer layer (96, 97) of the cited reference is a plastic layer, however, the reference fails to teach that it has heat reflective elements dispersed throughout the polymer as claimed in the pending claim. Rather, reflective layers 98, 99 which overlay or underlay the bottom outer layer (96, 97), are layers of “aluminum foil or other similar material” (Col. 8, lines 45-46. Thus, in Chavannes, there is a two layer construction where one layer is a metallic foil. Thus, consistent with MPEP § 2131, the Chavannes reference cannot be fairly said to anticipate Claims 7 and 9, as amended.

Applicant, therefore, requests that the rejection of Claims 7 and 9 as being anticipated by Chavannes under 35 U.S.C. §102(b) be withdrawn.

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*The Rejection of Claims 1, 4, 7-10, 14-15, and 23-25 Under 35 U.S.C. § 102(b) as Anticipated by Brockhaus (4535828) Should be Withdrawn.*

Brockhaus is cited as teaching a device with two bubble layers 43 contained between two outer layers 45, with a foil layer which may be applied between the bubble layers or be applied to the skin layers.

The Examiner's reliance upon Brockhaus is inappropriate as it is in a different field of art than Applicant's claimed invention. Each of the pending claims is directed to a concrete cure blanket, whereas Brockhaus is directed to a window insulation shade. Being a window insulation shade, Brockhaus requires that the device be made of hinged panels, with each panel made of a composite of sheet 5 and skin 11, with the skin 11 preferably being composed of "a highly reflective material such as aluminum foil or metalized polyethylene." (Col. 4, lines 45-47). The hinged panels are made by forming slits 25 in the laminate, with the slits being "formed along spaced parallel lines on alternate faces of the laminate. Each slit extends through one skin 11 and through the two layers of bubbles 13." (Col. 5, lines 8-10).

Being a concrete cure blanket, the outer layers (both top and bottom), and the bubble insulation therebetween do not have slits, as such are unnecessary to and, in fact, detrimental to the function of the claimed concrete cure blankets. The presence of slits, while necessary for the folding operation of a shade as described in Brockhaus, would be detrimental to the thermal insulation value of the inventive concrete cure blankets as each hinged slit region would provide a substantially non-insulated and weakened region along the slit lines. This would defeat the insulating value of the concrete cure blankets along the slit lines resulting in regions of the concrete that would cure differently from the remaining insulated regions, likely resulting in an overall diminution of the insulating value of the concrete cure blanket. Additionally, because the inventive blankets are employed at construction sites, the weakened regions would serve as frangible regions and promote tearing of the blanket into useless panel sections.

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Accordingly, Applicant respectfully submits that the Brockhaus reference is in a non-analogous art, and that the pending claims patentably distinguish over the Brockhaus reference under 35 U.S.C. §102(b). Applicants therefore request, that the anticipation rejection based upon Brockhaus be withdrawn.

*The Rejection of Claims 1, 2, 4, 6-15, 17-20, and 22-27 Under 35 U.S.C. § 102(b) as Anticipated by U.S. Patent No. 5,549,956 Should be Withdrawn.*

The Examiner has rejected claims 1, 2, 4, 6-15, 17-20, and 22-27 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,549,956 ("956") to Handwerker. Specifically, the Examiner argues that the '956 patent teaches the an insulation blanket with two inner bubble layers (16, 30) enveloped by two outer layers (12, 14) wherein a reflective layer(s) (18, 32) is/are located between the bubble layers and outer layers. Like Chavannes and Brockhaus, the Handwerker '956 reference teaches that it is known to employ an "aluminum foil or other like metallic heat reflective materials, such as silver or gold" (Col. 3, lines 33-35) as the reflective layers 18, 32. The presently pending independent claims 1, 7 and 14, as amended, require that at least the bottom outer layer, itself, be heat reflective such as by the inclusion of heat reflective particles in the polymer of the bottom outer layer. Independent claim 23 is patentably distinct from the Handwerker '956 in that it defines a device having plural insulting layers in which "at least one of said first bubble-forming layer and said second bubble-forming layer" have a reflective material applied thereto. In Handwerker '956, the heat reflective layers 18, 32 are metallic foils which do not form part of either the first bubble forming layer (16) or the second bubble forming layer (30). Thus, the presently pending claims are patentably distinct from Handwerker '956.

Because the '956 patent to Handwerker does not anticipate the claims of the present invention, the rejection of the claims under 35 U.S.C. § 102(b) as anticipated by the '956 patent should be withdrawn.

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*The Rejection of Claims 1, 2, 4, 6, 14, 15, 19, 23, 24 and 26 under 35 U.S.C. § 103 as being Obvious over Chavannes Should be Withdrawn.*

As noted above, Chavannes is directed toward a device formed by laminated layers of metal foil and bubble insulating material. Chavannes fails to teach or suggest, or provide the requisite motivation to one of ordinary skill in the art, to modify the reference to teach a heat reflective polymeric material forming the bottom outer layer as claimed in independent claims 1, 7 and 14. With respect to independent claim 23, Chavannes similarly fails to teach or suggest, or provide the requisite motivation to one of ordinary skill in the art to modify the reference to teach "at least one of said first bubble-forming layer and said second bubble-forming layer" have a reflective material applied thereto.

Accordingly, the presently amended claims are patentably distinct over Chavannes under 35 U.S.C. §103, and Applicant requests that such rejection be withdrawn.

*The Rejection of Claims 13, 22 and 27 under 35 U.S.C. § 103 as being Obvious over either Brockhaus or Handwerker in view of Sheridan et al (5011743) Should be Withdrawn.*

Brockhaus, as noted above, is directed to a window insulating shade having a plurality of hinge slits which permit adjacent insulated panels to fold upon themselves. As such, it is directed to non-analogous art relative to the presently claimed concrete cure blankets. The hinge slits in Brockhaus form non-insulated regions which are undesired and detrimental to the function and performance of a concrete cure blanket in that such non-insulated regions form non-uniform thermal regions that may result in non-uniform curing of the underlying concrete and such hinge slits form frangible regions which at a construction site may result in undesired tearing of the Brockhaus device into the individual panels during routine use of the concrete cure blankets. Thus, one of ordinary skill in the art of concrete cure blankets would not be motivated to refer to the teaching of

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Brockhaus. Applicant's foregoing remarks with respect to Brockhaus under the discussion of the 35 U.S.C. §102(b) rejection are referred to and restated.

Applicant's foregoing remarks with respect to Handwerker under the discussion of the 35 U.S.C. §102(b) rejection are also referred to and restated.

Claims 13, 22 and 27 depend from amended base claims which are now submitted to be allowable. The Examiner's reliance upon the Sheridan et al reference as teaching a black heat absorbing layer is noted, however, given the lack of motivation in either Brockhaus or Handwerker for such combination, such combination is improper under 35 U.S.C. §103. Accordingly, Applicant respectfully requests the withdrawn of the Examiner's rejection of these claims under 35 U.S.C. §103(a).

#### **Conclusion**

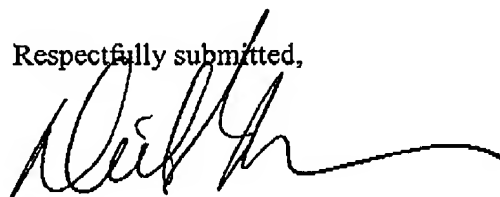
In light of the preceding discussion, Applicant submits that all outstanding requirements for allowance of the claims in the present invention have been met. On this basis, Applicant submits that the claims as currently presented should be allowed.

This response is being filed concurrently with a Request for a Three Month Extension of Time and an Amendment Transmittal. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Rosenbaum & Associates, P.C. deposit account No. 18-2000.

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Should the Examiner require any further information or wish to discuss an aspect of this Response, the Examiner is encouraged to telephone the undersigned at the telephone number set forth below.

Respectfully submitted,



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December 15, 2005

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